

**SIXTY-SEVENTH LEGISLATIVE DAY
THURSDAY, MARCH 13, 2003**

House of Representatives

The House convened at 10:45 a.m., the Speaker in the Chair.

Roll call showed all 70 members present.

Prayer was offered by Chaplain Jim Hardenbrook.

The Pledge of Allegiance was led by Brittni McLam, Page.

Approval of Journal

March 13, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Sixty-sixth Legislative Day and recommend that same be adopted as corrected.

FIELD(18), Chairman

Mrs. Field(18) moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

**Consideration of Messages from the
Governor and the Senate**

March 12, 2003

Mr. Speaker:

I return herewith **H 246**, **H 19**, and **H 105** which have passed the Senate.

WOOD, Secretary

H 246, **H 19**, and **H 105** were referred to the Judiciary, Rules, and Administration Committee for enrolling.

Report of Standing Committees

March 13, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION report that we have printed **HCR 28** and **H 365**.

FIELD(18), Chairman

HCR 28 was referred to the Health and Welfare Committee.

H 365 was referred to the Business Committee.

March 13, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled **H 106**, **H 108**, **H 109**, **H 157**, **H 36**, **H 40**, **H 259**, **H 233**, **H 76**, **H 179**, **H 32**, **H 30**, **H 58**, **H 60**, **H 62**, as amended, **H 127**, **H 38**, **H 132**, **H 129**, **H 35**, **H 43**, **H 46**, **H 268**, **H 267**, and **H 260**.

FIELD(18), Chairman

The Speaker announced he was about to sign enrolled **H 106**, **H 108**, **H 109**, **H 157**, **H 36**, **H 40**, **H 259**, **H 233**, **H 76**, **H 179**, **H 32**, **H 30**, **H 58**, **H 60**, **H 62**, as amended, **H 127**, **H 38**, **H 132**, **H 129**, **H 35**, **H 43**, **H 46**, **H 268**, **H 267**, and **H 260**, and, when so signed, ordered them transmitted to the Senate for the signature of the President.

March 13, 2003

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have transmitted enrolled **H 166**, **H 247**, and **H 223** to the Governor at 11:45 a.m., as of this date, March 12, 2003.

FIELD(18), Chairman

March 12, 2003

Mr. Speaker:

We, your COMMITTEE ON LOCAL GOVERNMENT, report that we have had under consideration **H 339** and recommend that it do pass.

BARRETT, Chairman

H 339 was filed for second reading.

March 12, 2003

Mr. Speaker:

We, your COMMITTEE ON TRANSPORTATION AND DEFENSE, report that we have had under consideration **S 1038**, **S 1043**, and **S 1064** and recommend that they do pass.

WOOD, Chairman

S 1038, **S 1043**, and **S 1064** were filed for second reading.

March 12, 2003

Mr. Speaker:

We, your COMMITTEE ON HEALTH AND WELFARE, report that we have had under consideration **S 1074** and recommend that it do pass.

SALI, Chairman

S 1074 was filed for second reading.

March 12, 2003

Mr. Speaker:

We, your COMMITTEE ON HEALTH AND WELFARE, report that we have had under consideration **H 17** and **H 202** and report them back with amendments attached to be placed on General Orders for consideration.

SALI, Chairman

H 17 and **H 202** were placed on General Orders for consideration.

March 13, 2003

Mr. Speaker:

We, your COMMITTEE ON STATE AFFAIRS, report that we have had under consideration **H 357**, **H 358**, and **S 1060**, as amended, and recommend that they do pass.

DEAL, Chairman

H 357, H 358, and S 1060, as amended, were filed for second reading.

March 13, 2003

Mr. Speaker:

We, your COMMITTEE ON EDUCATION, report that we have had under consideration **SCR 106** and recommend that it do pass.

TILMAN, Chairman

SCR 106 was filed for second reading.

March 13, 2003

Mr. Speaker:

We, your COMMITTEE ON REVENUE AND TAXATION, report that we have had under consideration **H 317** and recommend that it do pass.

CROW, Chairman

H 317 was filed for second reading.

There being no objection, the House advanced to the Eighth Order of Business.

Introduction, First Reading, and Reference of Bills and Joint Resolutions

HOUSE BILL NO. 366 BY EDUCATION COMMITTEE AN ACT

RELATING TO THE PUBLIC SCHOOL TRANSPORTATION SUPPORT PROGRAM; AMENDING SECTION 33-1006, IDAHO CODE, TO PROVIDE THAT COSTS OF CERTAIN ADDITIONAL FEATURES NOT PART OF A BASIC VEHICLE SHALL NOT BE REIMBURSED, TO DEFINE A BASIC VEHICLE AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 367 BY EDUCATION COMMITTEE AN ACT

RELATING TO THE IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-120A, IDAHO CODE, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO PROVIDE FOR AND IMPLEMENT THE IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE THAT THE BOARD OF TRUSTEES OF EACH SCHOOL DISTRICT SHALL ENSURE THAT THE DISTRICT PARTICIPATES IN THE IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM TO THE FULL EXTENT OF ITS AVAILABILITY; AMENDING SECTION 33-1001, IDAHO CODE, TO DEFINE "IDAHO STUDENT INFORMATION MANAGEMENT SYSTEM," "APPROPRIATE ACCESS" AND "REAL TIME"; AMENDING SECTION 33-1002, IDAHO CODE, TO PROVIDE FOR STATE SUPPORT OF THE IDAHO

STUDENT INFORMATION MANAGEMENT SYSTEM THROUGH THE EDUCATIONAL SUPPORT PROGRAM BEGINNING WITH FISCAL YEAR 2005-2006; AND AMENDING SECTIONS 33-515 AND 33-1004G, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

H 366 and **H 367** were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

There being no objection, the House advanced to the Tenth Order of Business.

Second Reading of Bills and Joint Resolutions

H 360 and **H 361**, by Appropriations Committee, were read the second time by title and filed for third reading.

S 1099, S 1100, and S 1101, by Resources and Environment Committee, were read the second time by title and filed for third reading.

H 331, H 322, and H 113, as amended in the Senate, by State Affairs Committee, were read the second time by title and filed for third reading.

S 1085, by Commerce and Human Resources Committee, was read the second time by title and filed for third reading.

S 1096, by Judiciary and Rules Committee, was read the second time by title and filed for third reading.

H 326, by Education Committee, was read the second time by title and filed for third reading.

H 333, by Ways and Means Committee, was read the second time by title and filed for third reading.

H 327, by Revenue and Taxation Committee, was read the second time by title and filed for third reading.

S 1144, S 1145, S 1146, and S 1147, by Finance Committee, were read the second time by title and filed for third reading.

H 208, as amended in the Senate, by Resources and Conservation Committee, was read the second time by title and filed for third reading.

There being no objection, the House advanced to the Twelfth Order of Business.

Consideration of General Orders

Mr. Denney moved that the House do now resolve itself into a Committee of the Whole House for the consideration of General Orders. Seconded by Ms. Jaquet. Motion carried.

Whereupon the House resolved itself into a Committee of the Whole House for the consideration of General Orders with

Mr. Moyle in the Chair.

When the Committee of the Whole House rose, the Speaker returned to the Chair and the House was in order.

Report of the Committee of the Whole House

March 13, 2003

Mr. Speaker:

We, your COMMITTEE OF THE WHOLE HOUSE, report that we have had under consideration **H 287, H 144, H 160, H 167, H 198, S 1122, H 17, and H 202** and report them back without recommendation, amended as follows:

HOUSE AMENDMENT TO H 287

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 25, delete ".0765" and insert: ".075".

CORRECTION TO TITLE

On page 1, delete lines 3 through 5 and insert: "AMENDING SECTION 33-1004, IDAHO CODE, TO DELETE THE PROVISIONS WHICH REQUIRE A DISTRICT TO DEMONSTRATE".

HOUSE AMENDMENTS TO H 144

AMENDMENTS TO SECTION 2

On page 2 of the printed bill, in line 13, following "twenty-" delete "~~one~~five" and insert: "one"; also in line 13, delete "~~4~~5" and insert: "1"; and also in line 13, following "age" insert: ", or up to twenty-five (25) years of age at the custodian's discretion,"; in line 14, following "68-804", delete "or" and insert: "~~or~~, Idaho Code, or twenty-one (21) years of age with respect to"; in line 16, delete "~~eighteen~~ twenty-five" and insert: "eighteen"; and also in line 16, delete "~~18~~25" and insert: "18".

AMENDMENT TO SECTION 3

On page 2, in line 40, delete "eighteen (18) years or".

AMENDMENT TO THE BILL

On page 1, delete lines 8 through 43, and on page 2, delete lines 1 through 7, and renumber subsequent sections accordingly.

CORRECTIONS TO TITLE

On page 1, in line 2, delete "AMENDING SECTION 68-801, IDAHO" and in line 3, delete "CODE, TO FURTHER DEFINE TERMS,"; in line 4, following "OF" insert: "CERTAIN"; and also in line 4, following "OCCURS" insert: ", AT THE CUSTODIAN'S DISCRETION,".

HOUSE AMENDMENT TO H 160

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 24, delete "~~unable failing~~" and insert: "unable"; and in line 26, delete "a failure" and insert: "inability".

HOUSE AMENDMENTS TO H 167

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, in line 33, delete "In cases involv-", delete lines 34 through 37, and in line 38, delete "edge in the use of such equipment and services.".

AMENDMENTS TO SECTION 2

On page 4, in line 12, delete "~~unable failing~~" and insert: "unable"; and in line 15, delete "failure" and insert: "inability".

AMENDMENTS TO SECTION 4

On page 6, in line 8, delete "~~or~~" and insert: "or"; in line 18, delete ";" and insert: "."; and delete lines 19 through 35.

AMENDMENTS TO SECTION 7

On page 8, in line 24, delete ", as required by sec-"; delete lines 25 and 26, and in line 27, delete "abilities.".

AMENDMENTS TO THE BILL

On page 7, delete lines 1 through 23; and in line 24, delete "SECTION 6" and insert: "SECTION 5"; and on page 8, in line 10, delete "SECTION 7" and insert: "SECTION 6"; and in line 43, delete "SECTION 8" and insert: "SECTION 7".

CORRECTIONS TO TITLE

On page 1, in line 3, delete "FOR CASES INVOLVING" and insert: "THAT DESIGNATED PROVISIONS SHALL NOT BE CONSTRUED TO ALLOW DISCRIMINATION ON THE BASIS OF"; in line 7, delete ", TO REVISE REQUIREMENTS"; in line 8, delete "RELATING TO WRITTEN FINDINGS OF THE COURT"; in line 9, delete "AMENDING SECTION 16-1609, IDAHO CODE, TO REVISE CERTAIN REPORTING", delete line 10, in line 11, delete "REPRESENTATIVES"; in line 15, delete "TO REVISE REQUIRE-", and in line 16, delete "MENTS RELATING TO CASE PLANS AND".

HOUSE AMENDMENTS TO H 198

AMENDMENTS TO SECTION 1

On page 1 of the printed bill, delete line 32, and insert: "less of whether the owner or operator possesses a permit or other written city or county authorization".

On page 2, in line 4, delete "CUP" and insert: "permit or other written city or county authorization".

AMENDMENT TO SECTION 3

On page 3, delete lines 39 through 52; on page 4, delete lines 1 through 55, and on page 5, delete lines 1 through 14 and insert:

"39-6502. WASTE TIRE STORAGE SITES. (1) No person shall store waste tires on any public or private property in this state or in the waters of this state unless the property is a waste tire storage site as defined or otherwise exempted in this chapter.

(2) Permit or local authorization required. No person shall own or operate a waste tire storage site without a permit or other written county or city authorization, as follows:

(a) Counties and cities shall only issue permits or other written authorizations that contain terms and conditions that

assure waste tire storage sites are operated in compliance with this chapter and any additional requirements the county or city deems appropriate. Counties and cities shall review waste tire storage site applications pursuant to the procedures contained in section 67-6512, Idaho Code.

(b) Existing waste tire storage sites.

(i) Within three (3) months of the effective date of this chapter, the owner or operator of an existing site that is:

1. Operating without a permit or other written local authorization on the effective date of this chapter, shall apply to the respective county or city jurisdiction for approval to operate the existing site via an approved permit or other written city or county authorization; or
2. Operating with a previously issued permit or other written city or county authorization on the effective date of this chapter, shall notify the respective county or city jurisdiction.

(ii) If an existing waste tire storage facility fails to submit to the county or city an application by October 1, 2003, the existing waste tire storage site shall cease storing waste tires by January 1, 2004.

(iii) If the county or city determines not to issue a permit, other written authorization, or a modification to an existing permit or approval, for the existing waste tire storage site, the existing waste tire storage site shall cease storing waste tires no later than three (3) months after receiving notice of the determination not to issue a permit, other written authorization, or modification for the site.

(c) New waste tire storage sites. The current owner or operator of a new waste tire storage site shall not commence waste tire storage at the site until the county or city issues a permit or other written authorization permitting waste tire storage.

(d) Counties and cities shall issue permits and other written local authorizations for waste tire storage sites. Upon written request from the city council or board of county commissioners to the department, the department shall be responsible for the permitting and authorization requirements of this section with respect to any application submitted to the county or city, in lieu of the county or city.

(e) Financial assurance. The owner or operator of a waste tire storage site shall maintain financial assurance in the form of a cash bond payable to the county or city, in an amount acceptable to the county or city where the waste tire storage site is located; provided however, counties and cities shall require a minimum initial financial assurance of two dollars and fifty cents (\$2.50) per tire authorized to be stored at the site. The amount of financial assurance shall be adjusted each year in accordance with the consumer price index on the anniversary date of the issuance of the permit or other city or county written authorization. Failure to adjust the amount of financial assurance on the anniversary date each year shall constitute failure to comply with the provisions of this chapter and shall result in automatic revocation of the permit or other written city or county authorization and forfeiture of the bond. Cities and counties shall only process an application submitted under this section when documentation submitted with the application establishes

compliance with the financial assurance requirement of this paragraph.

(i) The current owner or operator of an existing waste tire storage site shall comply with the financial assurance requirement of this paragraph by October 1, 2003. Except that the owner or operator of the existing waste tire storage site located in the magic valley as provided by rule of the department shall comply with the financial assurance requirement of this paragraph by July 1, 2005.

(ii) The current owner or operator of a new waste tire storage site shall comply with the financial assurance requirement of this section prior to commencing waste tire storage at the site.

Upon written request from the city council or board of county commissioners to the department, the cash bond will be written in favor of the department, in lieu of the city or county. In such cases, the department will oversee use of the bond should two (2) owners or operators become liable on the bond obligation.

(f) Siting. Counties and cities shall only issue a permit or written authorization to a waste tire storage site when the application establishes that the proposed or existing site is located on property owned as exclusively for industrial use.

(g) Application processing fee. Counties and cities may charge a fee for processing a waste tire storage site permit or authorization application or renewal.

(h) Records. Owners and operators of a waste tire storage site shall record and maintain on-site for a period of three (3) years, operational records including, but not limited to, the daily quantity of tires transported to and from the site, and the estimated quantity of tires located at the site.

(i) Suspension, revocation, renewal of permit or written authorization. The county or city may suspend, revoke, or refuse to renew a waste tire storage site's permit or written authorization if the county or city determines that the site is operating in violation of any requirement of this section or any term or condition of the site's permit or written authorization."

AMENDMENT TO SECTION 5

On page 6, in line 19, delete "CUP" and insert: "permit or other written county or city authorization".

AMENDMENT TO SECTION 8

On page 6, in line 43, following "~~improperly~~" insert: "knowingly".

CORRECTION TO TITLE

On page 1, in line 14, delete "PROVIDE" and insert: "REVISE".

HOUSE AMENDMENT TO S 1122

AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 12 and 13 and insert:

"(2) Harbor and protect ~~the~~ a person who committed such felony or who has been charged with or convicted thereof; are accessories.".

CORRECTION TO TITLE

On page 1, in line 4, following "FELONY" insert: "OR WHO HAS BEEN CHARGED WITH OR CONVICTED THEREOF".

HOUSE AMENDMENT TO H 17

AMENDMENT TO SECTION 1

On page 2 of the printed bill, delete lines 1 and 2 and insert:

"(g) ~~Any person exempted under the provisions of section 54-1804, Idaho Code; A medical officer of the armed forces of the United States, of the United States public health service, or of the veterans administration, while engaged in the performance of his official duties;~~

(h) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;

(i) A person administering a family remedy to a member of the family;

(j) A person authorized or licensed by this state to engage in activities which may involve the practice of medicine;

(k) A person who administers treatment or provides advice regarding the human body and its functions that:

(i) Does not use legend drugs or prescription drugs in such practice;

(ii) Uses natural elements such as air, heat, water and light;

(iii) Only uses class I or class II nonprescription, approved, medical devices as defined in section 513 of the federal food, drug and cosmetic act;

(iv) Only uses vitamins, minerals, herbs, natural food products and their extracts, and nutritional supplements; and who

(v) Does not perform surgery;

(vi) Requires each person receiving services to sign a declaration of informed consent which includes an overview of the health care provider's education which states that the health care provider is not an "M.D." or "D.O." and is not licensed under the provisions of this chapter;"

in line 3, delete "(h)" and insert: "(~~h~~)"; and in line 5, delete "(i)" and insert: "(~~im~~)".

CORRECTION TO TITLE

On page 1, in line 3, delete "CLARIFY AN EXEMPTION" and insert: "REVISE EXEMPTIONS".

HOUSE AMENDMENT TO H 202

AMENDMENTS TO SECTION 3

On page 2 of the printed bill, in line 41, following "Program" insert: "or other authorizations from the Secretary of Health and Human Services"; and in line 42, following "children" insert: "and allow provision of services as set out herein".

CORRECTION TO TITLE

On page 1, in line 6, following "CHILDREN;" delete

"AND"; and in line 7, following "COVERAGE" insert: "; AND PROVIDING A STATEMENT OF LEGISLATIVE INTENT".

We have also had under consideration **HCR 24**, report progress and beg leave to sit again.

MOYLE, Chairman

Mr. Moyle moved that the report be adopted. Seconded by Mr. Denney.

Whereupon the Speaker declared the report adopted.

H 287, as amended, **H 144**, as amended, **H 160**, as amended, **H 167**, as amended, **H 198**, as amended, **H 17**, as amended, and **H 202**, as amended, were referred to the Judiciary, Rules, and Administration Committee for engrossing.

S 1122, as amended in the House, was filed for First Reading.

HCR 24 was retained on General Orders.

The amendments were referred to Judiciary, Rules, and Administration committee for printing.

There being no objection, the House returned to the Eleventh Order of Business.

Third Reading of Bills and Joint Resolutions

Mr. Denney moved that the House recess until 1:45 p.m. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker declared the House at recess until 1:45 p.m.

RECESS

Afternoon Session

The House reconvened at 1:45 p.m., Mr. Denney in the Chair.

Roll call showed all 70 members present.

Prior to recess, the House was at the Eleventh Order of Business.

Third Reading of Bills and Joint Resolutions

Mr. Sali asked unanimous consent that Rule 70, with the exception of smoking, be suspended for the balance of the Legislative Day. There being no objection, it was so ordered.

Mr. Moyle asked unanimous consent that **H 252** be returned to the Resources and Conservation Committee. There being no objection, it was so ordered.

S 1042 was read the third time at length, section by section,

and placed before the House for final consideration.

At this time, the Speaker Pro Tem recognized Mrs. McKague to open debate.

The question being, "Shall **S 1042** pass?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bedke, Bell, Bieter, Black, Block, Boe, Bolz, Bradford, Campbell, Cannon, Clark, Collins, Crow, Cuddy, Deal, Denney, Douglas, Eberle, Edmunson, Ellsworth, Eskridge, Field(23), Gagner, Garrett, Harwood, Henbest, Jaquet, Jones, Kellogg, Lake, Langford, Langhorst(Wallace), Martinez, McGeachin, McKague, Meyer, Miller, Mitchell, Nielsen, Raybould, Ridinger, Ring, Ringo, Roberts, Robison, Sali, Sayler, Schaefer, Shepherd, Shirley, Skippen, Smith(30), Smith(24), Smylie, Snodgrass, Stevenson, Trail, Wood, Mr. Speaker. Total -- 62.

NAYS -- Bauer, Kulczyk, Moyle, Naccarato, Rydalch. Total -- 5.

Absent and excused -- Field(18), Tilman, Wills. Total -- 3.
Total -- 70.

Whereupon the Speaker Pro Tem declared **S 1042** passed the House. Title was approved and the bill was ordered returned to the Senate.

H 282 was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker Pro Tem recognized Mr. Speaker to open debate.

Mr. Speaker asked unanimous consent that, pursuant to Rule 22, discussion of **HJM 5** and **HCR 24** be allowed in debate of **H 282**. There being no objection, it was so ordered.

Pursuant to Rule 38(3), Mr. Ridinger disclosed a conflict of interest regarding **H 282**.

The question being, "Shall **H 282** pass?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bauer, Bedke, Bell, Black, Block, Bolz, Bradford, Campbell, Cannon, Collins, Crow, Deal, Eberle, Edmunson, Ellsworth, Field(18), Field(23), Gagner, Garrett, Jones, Kulczyk, Lake, Langford, McGeachin, McKague, Meyer, Miller, Moyle, Nielsen, Raybould, Ridinger, Ring, Roberts, Rydalch, Sali, Schaefer, Shirley, Skippen, Smith(30), Smylie, Snodgrass, Stevenson, Tilman, Wills, Wood, Mr. Speaker. Total -- 50.

NAYS -- Bieter, Boe, Clark, Cuddy, Douglas, Eskridge, Harwood, Henbest, Jaquet, Kellogg, Langhorst(Wallace), Martinez, Mitchell, Naccarato, Ringo, Robison, Sayler, Shepherd, Smith(24), Trail. Total -- 20.
Total -- 70.

Whereupon the Speaker Pro Tem declared **H 282** passed the House. Title was approved and the bill was ordered transmitted

to the Senate.

HJM 5 was read the third time at length and placed before the House for final consideration.

At this time, the Speaker Pro Tem recognized Mr. Speaker to open debate.

The question being, "Shall **HJM 5** be adopted?"

Whereupon the Speaker Pro Tem declared **HJM 5** adopted by voice vote and ordered the memorial transmitted to the Senate.

Mr. Moyle asked unanimous consent that the remaining bills on the Third Reading Calendar retain their places for one Legislative Day. There being no objection, it was so ordered.

There being no objection, the House advanced to the Sixteenth Order of Business.

Adjournment

Mr. Moyle moved that the House adjourn until 10:45 a.m., Friday, March 14, 2003. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker Pro Tem declared the House adjourned at 3:18 p.m.

BRUCE NEWCOMB, Speaker

ATTEST:

PAMM JUKER, Chief Clerk